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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,379	01/09/2002	Takashi Kondo	24540-20004.00	5474
25227	7590	03/11/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			PHAM, HUNG Q	
		ART UNIT		PAPER NUMBER
				2162

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/040,379	KONDO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	HUNG Q PHAM	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 October 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-20 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments, see Response Under 37 C.F.R. 111, filed 10/20/2004, with respect to claims 1-20 have been fully considered and are persuasive. The rejection under 35 U.S.C. § 102 and 103 of previous Office Action has been withdrawn.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 7, 11 and 20 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A computer readable medium is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).**

Regarding claims 7, 11 and 20, the claimed retrieval program has to be recorded in a computer readable medium as disclosed at paragraph [0129] in order to implements the claimed subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kinjo [USP 6,813,395 B1].**

Regarding claim 1, Kinjo teaches an image data retrieval apparatus for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*an extractor for extracting an image of a predetermined region from said image data registered in said image database* (Col. 10, Lines 34-51);

*a retrieval key image designator for designating said extracted image as an image serving as a retrieval key* (Col. 13, Lines 45-50);

*a retriever for using said retrieval key image to retrieve from said image database image data containing an image identical or analogous to said retrieval key image* (Col. 13, Lines 50-65).

Regarding claim 7, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo program includes the steps of:

*referring to said plurality of items of image data registered in said image database, and extracting an image of a predetermined region from said image data registered in said image database* (Col. 10, Lines 34-51);

*designating said extracted image of said predetermined region as an image serving as a retrieval key* (Col. 13, Lines 45-50);

*using said designated retrieval key image to retrieve from said image database image data containing an image identical or analogous to said retrieval key image* (Col. 13, Lines 50-65).

Regarding claim 8, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*a retrieval key image extractor for extracting images serving as a retrieval key for search through said plurality of items of image data registered in said image database* (Col. 10, Lines 34-51);

*a storage for storing said extracted retrieval key images therein* (Col. 12, Lines 42-52);

*a retrieval key image designator for designating a desired retrieval key image among said stored retrieval key images* (Col. 13, Lines 16-25, Lines 45-54);

*a retriever for using said designated retrieval key image to retrieve from said image database more than one item of image data containing an image identical or analogous to said retrieval key image* (Col. 13, Lines 50-65).

Regarding claim 11, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo program includes the steps of:

*extracting an image serving as a retrieval key for search through said plurality of items of image data registered in said image database* (Col. 10, Lines 34-51);

*storing in a storage more than one said retrieval key images extracted* (Col. 12, Lines 42-52);

*designating a desired retrieval key image among said more than one retrieval key image stored* (Col. 13, Lines 16-25, Lines 45-54);

*using said designated retrieval key image to retrieve from said image database more than one item of image data containing an image identical or analogous to said retrieval key image* (Col. 13, Lines 50-65).

Regarding claims 12 and 15, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*a retrieval key image extractor for extracting an image serving as a retrieval key for search through said plurality of items of image data registered in said image database* (Col. 10, Lines 34-51);

*a storage for storing more than one said extracted retrieval key image therein* (Col. 12, Lines 42-52);

*a retrieval key image designator for designating more than one desired retrieval key image among said more than one retrieval key image stored* (Col. 13, Lines 16-25, Lines 45-54);  
*a retriever for using said more than one designated retrieval key image to retrieve from said image database image data containing an image identical or analogous to said retrieval key image* (Col. 13, Lines 50-65).

Regarding claim 16, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*an image obtainer for obtaining information corresponding to an image* (Col. 12, Lines 40-47);  
*a table for having recorded therein said information and an image serving as a retrieval key, correlated with each other* (TABLE 1, Col. 13);

*a converter for referring to said table to convert said information to a retrieval key image* (Col. 12, Line 47-Col. 13, Line 15); and

*a retrieval for using said retrieval key image to retrieve from said image database image data containing an image identical or analogous to said retrieval key image* (Col. 13, Lines 50-65).

Regarding claim 20, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo program includes the steps:

*obtaining information corresponding to an image* (Col. 12, Lines 40-47);

*converting said information to a retrieval key image with reference to a table having recorded therein said information and an image serving as a retrieval key, correlated with each other (TABLE 1, Col. 12, Line 47-Col. 13, Line 15); and*

*using said retrieval key image to retrieve from said image database image data containing an image identical or analogous to said retrieval key image (Col. 13, Lines 50-65).*

Regarding claims 2, 10, 14 and 18, Kinjo teaches all the claimed subject matters as discussed in claims 1, 9, 13 and 16, Kinjo further discloses *image of said predetermined region is an image of a face of a person* (Col. 10, Lines 61-67).

Regarding claim 3, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo further discloses the step of *designating more than one said retrieval key image* (FIG. 2, Col.10, Lines 39-67).

Regarding claim 4, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo further discloses the step of *extracting more than one said image of said predetermined region from said image data in said image database for storage* (FIG. 2, Col. 10, Lines 39-67, Col. 12, Lines 42-52) and *designating a desired retrieval key image from said more than one image of said predetermined region stored* (Col. 13, Lines 16-25, Lines 45-54).

Regarding claim 5, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the step of *retrieving more than one item of image data containing an image identical or analogous to said retrieval key image* (FIG. 5).

Regarding claim 6, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the step of *designating more than one retrieval key image* (Col. 13, Lines 16-25, Lines 45-54).

Regarding claim 9, Kinjo teaches all the claim subject matters as discussed above with respect to claim 8, Kinjo further discloses the step of *extracting an image of a predetermined region included in said image data registered* (Col. 10, Lines 34-51).

Regarding claim 13, Kinjo teaches all the claim subject matters as discussed above with respect to claim 12, Kinjo further discloses the step of *extracting an image of a predetermined region included in said image data registered* (Col. 10, Lines 34-51).

Regarding claim 17, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 16, Kinjo further discloses the technique of *obtaining more than one item of information* (Col. 12, Lines 40-47).

Regarding claim 19, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 18, Kinjo further discloses the technique of *obtaining information in a form of a name of a person* (Col. 12, Lines 23-35).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner Hung Pham  
March 1, 2005



SHAHID ALAM  
PRIMARY EXAMINER